

# CITY OF WINCHESTER, VIRGINIA

## CITY COUNCIL AGENDA ITEM

**CITY COUNCIL MEETING OF:** September 8, 2015

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**ITEM TITLE:** Appeal of BAR Decision Regarding Window Replacement for Sam Simpson at 210 S. Washington St. BAR-15-336

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**PUBLIC HEARING DATE:** September 22, 2015 at 6:00 PM

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The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

**Review:**

|                  |           |                    |
|------------------|-----------|--------------------|
| Josh Crump       | Completed | 09/03/2015 9:32 AM |
| Anthony Williams | Completed | 10/22/2015 2:40 PM |
| Eden Freeman     | Completed | 10/22/2015 2:45 PM |

**Approved as to form:**

**Josh Crump**

Josh Crump, Planner

9/3/2015

By: 

**Winchester**  
office of the  
city attorney *Virginia*

Anthony C. Williams, City Attorney  
Office of the City Attorney  
15 N. Cameron Street, Suite 313  
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Eden Freeman, City Manager

10/22/2015

# CITY COUNCIL ACTION MEMO

**To:** Honorable Mayor and Members of City Council  
**From:** Josh Crump, Planner  
**Date:** September 8, 2015  
**Re:** Appeal of BAR Decision Regarding Window Replacement for Sam Simpson at 210 S. Washington St. BAR-15-336

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## **THE ISSUE:**

An appeal of a BAR decision pertaining to window replacement at 210 S. Washington Street. City Council must hold a public hearing within 60 days of the date of appeal filed on July 17, 2015. The Public Hearing was held on September 22, 2015.

## **RELATIONSHIP TO STRATEGIC PLAN:**

**Vision:** To be a beautiful, vibrant city with a historic downtown, growing economy, great neighborhoods with a range of housing options and easy movement.

**Goal #2:** Promote and accelerate revitalization of catalyst and other areas throughout the city.

## **BACKGROUND:**

During a city inspection after a citizen complaint, replacement of windows with new vinyl windows, as well as other exterior changes, was observed at 210 S. Washington Street. Much of the exterior work was already completed and many of the original wooden windows were already replaced with vinyl windows after an extensive renovation project undertaken by the owner, Sam Simpson.

Mr. Simpson was cited by the City's Zoning and Inspections department for not having a certificate of appropriateness (COA) from the BAR for the exterior work and applied for a COA for this work on May 22<sup>nd</sup>. The first BAR case for this property (BAR-15-310) was heard on June 4, 2015 (see attached minutes of the June 4, 2015 meeting). The Board split the COA for the property into two motions; the first motion approved the exterior changes for the roof materials and door and shutter colors. The second motion denied the replacement vinyl windows due to being an "inappropriate use in the Historic District". During the meeting, it was brought up by Chairman Rockwood of the Board if "replacing the front windows [with wooden windows] would keep the spirit of the District." A decision letter was sent on June 5, 2015 (see attached letter dated June 5, 2015) by Planner I Josh Crump, describing the Board's decision and three options to mitigate the window issue which included; replacing all vinyl windows with wooden windows; replacing the five front vinyl windows with wooden windows; or appealing the BAR's decision to City Council. Mr. Simpson opted for the second option and applied for a COA to replace the five front windows with wooden windows on June 8, 2015.

The BAR heard this matter (BAR-15-336) at its June 18, 2015 meeting (see attached

minutes of the June 18, 2015 meeting). At the BAR meeting, Mr. Simpson proposed to remove the five front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. The Board indicated they would like to see wood windows on the three sides of the house that are visible and consider the rear of the house a separate issue. The Board suggested a staggered replacement schedule where the front façade windows would be replaced first and then give a lengthy period of time to replace the remainder windows on the sides. The Board's decision in BAR-15-336 approved a COA to replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application with simulated divided lights: The windows in the front of the house to be replaced within one year and the windows on the side of the house to be replaced within two years. The rear would be left with vinyl windows since it is not visible from public view and one vinyl window on the side since it was originally vinyl when Mr. Simpson purchased the house.

On July 17, 2015, Mr. Simpson submitted an appeal of the BAR's decision from the June 18<sup>th</sup> meeting (see attached letters). In a follow up letter, Mr. Simpson clarified his appeal stating that he is appealing the provision in the BAR's decision to replace the side windows with wooden windows and utilizing the vinyl windows that replaced the original windows without a COA. The letter also states Mr. Simpson is willing to replace the windows on the front of the house with wooden windows.

The appeal of the BAR decision and required fee were submitted in accordance with Section 14-9-1 of the Winchester Zoning Ordinance. The Clerk has sixty (60) days to schedule a public hearing with City Council from the date of the appeal. The Zoning Ordinance states that during this review of the appeal, "[t]he same standards shall be applied by Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part."

During the appeal process, the City became aware that the subject property was sold by Mr. Simpson to Sean and Elizabeth Gray. City staff reached out to the new property owners ensuring the new property owners were aware of the BAR appeal by Mr. Simpson. Mr. and Mrs. Gray indicated they were aware of the appeal and have an agreement in place pending the outcome of the appeal. The City requested the Grays sign a BAR application as part of updating the records for this appeal case and received the signed application from the Grays on October 13, 2015 (see attached).

While the Board gave Mr. Simpson a lengthy period of time to replace the windows on the house due to the financial circumstances involved, the key part of this case is whether the public views from the side of the house portray the same significance as the public view from the front of the house within the Historic District. Section 14-2-1 of the Zoning Ordinances defines 'Exterior Architectural Appearance' to include "*architectural character; general arrangement of the exterior of a structure; general composition, including the kind, color, and texture of building material; and **type and character of all windows, doors, light fixtures, signs, and appurtenant elements, subject to public view from a public street, public way, or other public places.***"

Chapter 3, page 5 of the Winchester Historic District Design Guidelines, discusses

windows as part of Residential Rehabilitation. Portions of the guidelines read: “1. Retain existing windows if possible.” “2. Repair existing windows...” “4. Replace existing windows only when they are missing or beyond repair.” “5. Do not use materials or finishes that radically change the sash, depth of reveal, muntin configuration, the reflective quality of color of the glazing, or the appearance of the frame.” “

Attached are Google Street View images taken approximately in July 2014 of 210 S.Washington Street simulating driving or walking past the house. These images show the original window before the replacement windows were installed in early 2015. From the street it is hard to distinguish the material from the window. Further, during the spring and summer months when foliage is still on surrounding landscaping, views to the side of the house from the public view shed are reduced.

**BUDGET IMPACT:**

None

**OPTIONS:**

1. Uphold the decision of the Board of Architectural Review to approve the request, in full based upon a finding that the applicant undertook the work without BAR approval and that the Board properly applied the standards for window replacement and gave the applicant reasonable amount of time to complete the work;
2. Modify the decision of the Board of Architectural Review to allow the replacement of wooden windows with vinyl for only the sides of the house; or,
3. Partial Reversal of the decision of the Board of Architectural Review, in full based upon a finding that the BAR erred in applying the standards established for the BAR.

**RECOMMENDATIONS:**

Staff recommends that Council consider Option # 1 or 2

# Alexandria Boards of Architectural Review

## Window Policy

Adopted 10/20/2010 (OHAD) & 10/27/2010 (PG)  
Amended 12/04/2013 (OHAD) & 11/20/2013 (PG)

### A. General

1. Direct replacement of any window requires an administrative finding of appropriateness from the Board of Architectural Review (BAR) staff, under sec. 10-109 and 10-209 of the Alexandria Zoning Ordinance. A building permit from Code Administration is also required per a City Code amendment, effective June 1, 2010.
2. BAR staff may administratively approve the direct replacement of windows in the existing openings which comply with all of the policies stated in section B, below, and with the Alexandria Replacement Window Performance Specifications listed in section C, below. Prior to any approval, qualified BAR staff must first field survey and confirm the existing window's age, architectural style and condition.
3. Where staff makes a written finding that a window is not visible from a public right-of-way, the window is not regulated by the BAR and may be replaced with any suitable window allowed by the Virginia Construction Code. However, whether visible or not, a building permit is required from Code Administration to replace a window in the historic districts.
4. Proposed replacement windows not in compliance with the Board's adopted policies, or not architecturally compatible or historically appropriate in the opinion of staff, require review and approval of a Certificate of Appropriateness by the BAR at a public hearing. The BAR will evaluate such cases on the merits of that particular building and the window product proposed. Refer to the chapter on Windows in the BAR's *Design Guidelines* and the Parker-Gray Residential Reference Guide for additional information.
5. Any appropriate and compatible modern window permitted by this Window Policy or approved by the Board as part of the overall building's Certificate of Appropriateness approval may be used on new buildings and additions.
6. Vinyl or vinyl clad windows, and windows with removable muntins ("grilles") or muntins sandwiched between the glass, are not considered appropriate or compatible in any location in the Old and Historic Alexandria District and are only considered appropriate on Later (post 1931) buildings in very limited circumstances in the Parker-Gray District.
7. The use of storm windows is strongly encouraged to protect historic windows and to conserve energy. According to the BAR's adopted *Design Guidelines*, storm windows are not regulated by the BAR and do not require a building permit but they should be installed so as not to damage historic material and to be visually minimally obtrusive. Energy panels may be used on single glazed replacement window sash.
8. These policies may be amended by the Boards as new materials become available but will be reviewed by the Board and updated at least every five years.

### B. Staff Administrative Approval of Replacement Windows

Staff may administratively approve direct replacement of windows if the proposed windows comply with the Alexandria Replacement Window Performance Specifications (p.2) and all of the policies stated below:

#### 1. Original Windows

All original or previously replaced windows with either wood-pegged mortise and tenon sash joinery or with cylinder ("wavy") glass must be repaired and retained. This generally applies to all 18<sup>th</sup> or 19<sup>th</sup> century buildings but the use of cylinder glass can extend to 1930. Where staff confirms in the field that these elements are too deteriorated to repair, they may be replicated to match exactly on a case by case basis. Original window frames and trim from the 18<sup>th</sup> and 19<sup>th</sup> centuries must also be preserved and repaired or replicated.

## **2. Previously Replaced Windows**

Previously replaced windows which contain modern frames, sash and smooth (sheet, plate or float) glass may be replaced with one of the following in the historically appropriate style:

- a. 18<sup>th</sup> and 19<sup>th</sup> century buildings with multi-light sash must use single glazed painted wood windows on the street facades. Energy panels may be used on single glazed replacement sash. Secondary elevations of these buildings may use painted wood simulated divided light insulated glass windows.
- b. 1-over-1, or 2-over-2 sash windows with modern float glass in modern sash may be replaced with double glazed painted wood windows on any façade.
- c. Buildings whose sash was previously replaced but which retain their historic frames must use appropriate sash replacement kits that preserve the existing frames.

## **3. Double Glazing**

Double glazed (insulated) and simulated divided light painted wood windows may be used throughout on buildings or additions constructed after 1930, when Thermopane brand insulated glass windows were invented.

## **4. Aluminum Clad Wood, Wood Composite, and Fiberglass**

High quality, appropriately detailed aluminum clad wood, wood composite, or fiberglass replacement windows may be used in both historic districts on buildings constructed after 1965, when these windows became commercially available. For buildings located in the Parker-Gray District, use the *Parker-Gray Residential Reference Guide* to determine additional applicable locations. These windows may also be used on any 20<sup>th</sup> century commercial building more than four stories in height and on multifamily projects with more than four dwelling units. Aluminum clad wood or fiberglass windows may generally replace steel sash windows on any building when using the same light configuration, color and operation, except where staff believes an architecturally significant building has existing intact and restorable steel sash.

## **C. Alexandria Replacement Window Performance Specifications**

Windows may be provided by any manufacturer but their construction materials and form must comply with the specifications below in order to be approved administratively by BAR staff:

1. Wood replacement windows must be full frame or sash replacement kits in the existing frame rather than insert or pocket replacements. Fiberglass insert windows must have tight tolerances with minimal jamb widths and overlay panning;
2. The dimensions and proportions of the window rails, stiles, muntins, frame, sill and exterior trim must match historically appropriate window proportions;
3. Multi-light insulated glass windows must have permanently fixed muntins on both the interior and exterior, with spacer bars between the glass that are a non-reflective, medium value color;
4. Muntins must be paintable and have a putty glaze profile on the exterior;
5. All glazing must be clear, non-reflective and without tint. Low-E (low emissivity) glazing is encouraged for energy conservation but the glass must have a minimum 72% visible light transmission (VLT) with a through-the-glass shading coefficient between 0.87 – 1.0, and a reflectance of less than 10%. Low-E 272 generally meets these criteria;
6. The vinyl weatherstrip portion of the wood window jambs should be minimally visible;
7. Insect screen frames must match the color of the window frame and the screen mesh must be a neutral color with sufficient light transmittance that the window sash remains visible behind; and,
8. The applicant must submit complete window manufacturer specification sheets and a contractor order form to BAR staff with the building permit application to confirm compliance with these specifications.

After the August 25, 2015 Council work session, staff reached out to other localities in Virginia for advice on how their Architecture Review Boards handles the issue of window replacements within their local historic districts. Staff contacted representatives in Alexandria, Fredericksburg, Staunton, and Williamsburg.

In Alexandria, the city BAR issued a "Window Policy" (see attached document), that helps guide decisions of the BAR and staff on replacement windows. The BAR generally finds vinyl or vinyl clad windows are not considered appropriate in their two historic districts. In the "newer" historic district known as the "Parker-Gray Historic District", vinyl windows (composite or vinyl finishes that are added onto wood wooden) are considered appropriate on later (post 1931) buildings in very limited circumstances. There has only been one appeal of the BAR to City Council in Alexandria within the last five years. The decision was to uphold the decision of the BAR consistent with the adopted Window Policy. An interesting sidebar to Alexandria's review policies is that they do not review storm windows. The thought is that, by allowing unregulated storm windows, there would be more argument to keep the original wooden windows preserved behind them. Unlike Winchester, Alexandria does require a building permit for window replacement and that helps to catch illegal window replacements.

In Fredericksburg, the city ARB has received requests for window replacement, but generally holds firm to the Department of the Interior federal guidelines. Current Planning Director Charles Johnston does not recall any appeals of window replacement denials by the local board being appealed to City Council. Like Alexandria, Fredericksburg requires a building permit for window replacement.

In Staunton, there are 5 National Historic districts that are fully encompassed into the local historic district where the local board takes a firm position on not allowing replacement of wooden windows with vinyl on any elevations visible from public property. Long-serving Planning Director Sharon Angle does not recall a single appeal of vinyl window replacement denials to City Council in the past 20 years. Staunton has a presentation that one of their preservation planners prepared that documents how investing in repairing existing wooden windows pays off since newer replacement windows (both wood and vinyl) are not constructed as well as require more frequent replacement. As a sidebar, Ms. Angle noted that she was surprised to hear that Winchester was entertaining relaxed standards since Winchester served as the model for establishing the historic district in Staunton and offered training to the Staunton BAR members back when they were first established.

In Williamsburg, the City has extensive historic districts separate from the area controlled by the Colonial Williamsburg foundation. Deputy Planning Director Carolyn Murphy, who staffs the local ARB, noted that their Board is even reluctant to allow replacement of wooden windows with new wooden windows and has never accepted vinyl replacement windows. As part of their review of replacement wooden windows, they have a preservation planner or architect go out to the site and examine the requested windows to determine whether a wooden replacement is needed or whether repair should be undertaken instead. They have had a few appeals of BAR decisions to City Council, all of which have been upheld. Ms. Murphy noted that the material of the window is considered a very important part of the fabric of the historic district that must be preserved in addition to other aspects of the windows such as window dimensions, profile, muntin integrity, color, and glazing.



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June 25, 2015

Samuel Simpson  
210 S. Washington Street  
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

**BAR-15-336** Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

Joshua Crump  
Planner I

7/17/15  
I would like to appeal this decision

Samuel E. Simpson

I would like to appeal the B.A.R.'s decision to replace the newly installed vinyl windows with wood in the front and both sides. I would like only to replace the front of home with wood and leave the sides vinyl. I do not think the sides ~~of the~~ being vinyl take away from the historic value or look of home.

Thank you.

Samuel E. Simpson  
210 S. Washington St.  
Winchester, VA

Applicant was not present.

*Mr. Walker made a motion to table **BAR-15-304** until the next meeting. Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 7-0.*

**BAR-15-308** Request of Jonathan Sladek for a Certificate of Appropriateness for an accessory building at 436 Lafayette Place.

Mr. Sladek explained that his shop on North Cameron Street had closed and he needed a place to store his tools. He used all reclaimed wood siding and windows to build his shed. Vice Chairman Bandyke said the only issue he had was with the asphalt shingles. Mr. Sladek said he matched them with what was on his house. He scaled down the shed to have the same dimensions as his house. Vice Chairman Bandyke said it was considered a new structure even though it was constructed to look like an old structure. He outlined the rules for roofing materials in the Historic District. Mr. Sladek said he would have done a metal roof if his house had a metal roof. He had to put the shingles up in order to protect his tools inside the shed.

Board members asked questions about the foundation and the materials to be used around the outside of it. Mr. Sladek asked about fencing around his property. He has had several intruders and would like to protect his property better. Chairman Rockwood said the Board could work with him on fencing if it is visible from the public right-of-way. The Zoning office could provide guidelines for construction of one.

The Board members asked questions about visibility of the building from the public right-of-way. Vice Chairman Bandyke asked Ms. Schroth, since she had seen the building, how prominent the roof of the shed is from the right-of-way. She stated that if you are coming down the street from either direction, it is not visible until you are right in front of it. The trees surrounding it are pine so it is not visible during the winter. Chairman Rockwood said if they required a metal roof, it would not have any relation to other structures around it.

*Mr. Serafin made a motion to approve a Certificate of Appropriateness for **BAR-15-308** using half round gutters and having paint colors approved through the Zoning Department. The foundation is to be parged or covered with stone. Shingles are approved as submitted. Vice Chairman Bandyke seconded the motion. Voice vote was taken and the motion passed 7-0.*

**BAR-15-310** Request of Sam Simpson for a Certificate of Appropriateness to change the windows, roof and exterior paint at 210 South Washington Street.

Mr. Simpson stated that he was unaware his house was in the historic district until he found a notice on his door. He said he had tried to stay within the period the house was built. There were already some vinyl windows in the home when he had bought it. Some of them were nailed shut. One had a cut out for an air conditioner. He was unaware it was inappropriate to use vinyl windows.

The Board members asked questions about the location of the windows and which had been replaced. Mr. Simpson said he had replaced all but one window. He tried to keep the same look of the home. Vice Chairman Bandyke asked how long Mr. Simpson had owned the home. Mr. Simpson said he bought the home in November 2014 and started the project January 1, 2015. Vice Chairman Bandyke asked if there was any indication when he bought the house that it was in the Historic District. Mr. Simpson said none of the paperwork he received said anything about it. His neighbors had complimented him on bringing the house back to life but they never said anything to him. He did not know until he found the

red notice on his door. He received the postcard from the City eight days before he was given the notice.

Chairman Rockwood said this situation has happened before with other properties. People do renovations without actual knowledge of the policies of the Board. The Board has drawn a firm line on it. Mr. Crump said the guidelines discourage the use of vinyl but they are just guidelines and are there for their accommodation. Vice Chairman Bandyke said he wanted to go on record that vinyl windows are unacceptable in the Historic District. They have never approved vinyl windows. If they disapprove them and City Council makes a decision to reverse it that is their decision. The Board does not accept PVC, composite or vinyl windows. They are efficient, long-lasting products but they are not included in the Historic District. If these windows are approved, it will start a precedent. Mr. Simpson said he kept the same look as the original windows. Chairman Rockwood said he agreed and from the street, it was hard to distinguish. The problem is not all houses are situated like his and it is a recurring problem that comes before the Board. He wondered if replacing the front windows would keep the spirit of the District.

Mr. Simpson said he had put a lot of work into a home that needed it and thought he had done a great job. He apologized for not following procedure and wanted to straighten it out and try to comply with what the Board wanted.

Mr. Serafin said the windows that could be seen from the street should be replaced. If he had brought the project to them beforehand, they would have rejected the vinyl windows. Mr. Simpson asked how home owners are made aware their home is in the Historic District. He has not had anything since the postcard. Chairman Rockwood said if you were going to buy a property anywhere, one of the things that should be looked at is the zoning and where the property lies. A question that should be asked is what are the zoning requirements on a parcel. Mr. Simpson said in the past he has not needed permits for a roof, paint colors or windows until he found out he was in the Historic District. He said Mr. Crump had given him the literature for the District and he is now aware. However, he will be losing money with having to replace the windows. Chairman Rockwood said if he had brought this project before them before starting work, they would have told him what type of windows to use and given him guidance. The Board agreed he had done a nice job on the house. Mr. Simpson said he had grown up in Winchester but had not lived here in 15 years. He thought he was doing the right thing in fixing up the home. He does not live in the house right now due to personal circumstances. Vice Chairman Bandyke asked questions about the roofing, front door and paint colors. The Board decided to make separate motions for the windows and remaining items.

*Vice Chairman Bandyke made two separate motions for **BAR-15-310**.*

*Motion #1- To approve a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *Roofing materials and paint colors as submitted.*

*Ms. Jackson seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.*

*Motion #2-The Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:*

- *The vinyl windows are inappropriate for use in the Historic District.*

*Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0. Ms. Schroth abstained.*

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15 North Cameron Street  
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June 5, 2015

Sam Simpson  
439 Historic Packhorse Trail  
Hedgesville, WV 25427

Dear Mr. Simpson:

On Thursday, June 4, 2015, the Board of Architectural Review acted on the following request:

**BAR-15-310** Request to change the windows, roof and exterior paint at 210 South Washington Street. The board split the Certificate of Appropriateness into two motions:

Motion #1- On a vote of 6-0, the Board approved a Certificate of Appropriateness for **BAR-15-310** for the following:

- Roofing materials & colors for the door and shutters as submitted.

Motion #2- On a vote of 6-0, the Board denied a Certificate of Appropriateness for **BAR-15-310** for the following:

- The vinyl windows are inappropriate for use in the Historic District.

City staff would encourage you to review the Winchester Historic District Design Guidelines, specifically Chapter 3, titled "Residential Rehabilitation" regarding windows. It is highly suggested that replacing the installed vinyl windows with materials, such as wood, is more appropriate to the Historic District guidelines. To mitigate the window issue, there are three options we are advising.

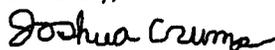
Option A: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing all vinyl windows with wooden windows.

Option B: Resubmit a Certificate of Appropriateness application for the Board of Architectural Review replacing the five front vinyl windows facing South Washington Street with wooden windows.

Option C: Appeal the BAR decision to Winchester City Council. As per section 14-9-1.1 of the Winchester Zoning Ordinance (copy enclosed), the decision of the Board may be appealed in a notice in writing (along with a \$75.00 fee) to the Common Council of the City of Winchester within 30 days of the Board's decision (due by July 6, 2015).

Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely,

A handwritten signature in cursive script that reads "Joshua Crump".

Joshua Crump  
Planner I

*"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."*

**BOARD OF ARCHITECTURAL REVIEW  
MINUTES**

The Board of Architectural Review held its regularly scheduled meeting on Thursday, June 18, 2015, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**POINTS OF ORDER:**

**PRESENT:**        Chairman Rockwood, Mr. Serafin, Mr. Walker, Ms. Jackson, Ms. Elgin, Ms. Schroth

**ABSENT:**        Vice Chairman Bandyke

**STAFF:**         Josh Crump, Aaron Grisdale, Carolyn Barrett

**VISITORS:**      Sam Simpson, Samuel Leinbach, Alexander Kilimnik

**APPROVAL OF MINUTES:**

Chairman Rockwood called for corrections or additions to the minutes of June 4, 2015. Hearing none, Chairman Rockwood called for a motion. Ms. Jackson moved to approve the minutes as submitted. Mr. Walker seconded the motion. Voice vote was taken and the motion passed 6-0.

**CONSENT AGENDA:**

None

**NEW BUSINESS:**

**BAR-15-327** Request of Samuel P. Leinbach Jr. for a Certificate of Appropriateness to replace and add new storm windows at 317 Fairmont Avenue.

Mr. Leinbach presented his project and gave information about the windows he would like to use. The board members asked questions about the window details. Mr. Leinbach said he was going to replace six windows in the sleeping porch upstairs to start with.

*Mr. Walker made a motion to grant a Certificate of Appropriateness to **BAR-15-327** as submitted for the new storm windows and flush mount installation style. Mr. Serafin seconded the motion. Voice vote was taken and the motion passed 6-0.*

**BAR-15-336** Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

Mr. Simpson proposed to remove the front vinyl windows and replace them with wood windows. He explained it would be a financial hardship to replace all the windows in the house at the same time. Each window is a different size and custom made for the opening it is in. He would have to remove and reframe the openings for standard sized windows. Mr. Serafin said custom-made wood windows are available. Mr. Simpson said he was having a hard time finding them and the board members named several businesses that carried them.

Mr. Walker said the Board was in a tough position because the windows had already been replaced with vinyl. If they granted a Certificate of Appropriateness, it would set a dangerous precedent for that kind of action to continue. There are guidelines they have to adhere to. He would like to see wood windows on the three sides of the house that are visible and consider the back of the house a separate issue.

Mr. Simpson said he had exhausted all funds making renovations to the house and was in danger of losing it. Had he known the house was in the Historic District, he would not have used vinyl windows. Mr. Serafin said the monetary aspects of a case cannot bear on their decision. They would have to verify financial hardship on every case. Chairman Rockwood suggested the front façade be changed and then give a lengthy period of time to replace the remainder. Mr. Simpson asked what would happen if he had to sell the home. Chairman Rockwood said he could appeal to the City Council. Staff can advise what steps he would need to take to do so. After further discussion by the Board, Chairman Rockwood called for a motion.

*Mr. Serafin made a motion to grant a Certificate of Appropriateness to **BAR-15-336** to replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application with simulated divided lights. The one vinyl window on the side of the house to be left as is. The windows on the back of the house to be replaced with vinyl windows. The windows in the front of the house to be replaced within one year. The windows on the side of the house to be replaced within two years. Mr. Walker seconded the motion. Voice vote was taken and the motioned passed 5-0. Ms. Schroth abstained.*

**BAR-15-334** Request of Alexander Kilimnik for a Certificate of Appropriateness for the addition/repair of a deck at 107 East Cecil Street.

Mr. Kilimnik spoke about the project and his intentions for the home. He started work in October 2014. He was not aware of the Historic District requirements when he replaced the windows. Mr. Grisdale gave a description and timeframe of the repairs and zoning violations that have occurred on the property since May 2015.

Mr. Kilimnik said he had assumed only houses that had historic plaques needed prior approval for work and his neighbors had the same assumptions. He talked about measures he had taken to protect the house while the stop work order is in effect. He spoke about the condition of the house when he purchased it. Chairman Rockwood asked how many doors and windows had been replaced. Mr. Kilimnik said eight windows and three doors and described their condition before replacement.

Mr. Kilimnik explained his reasons for purchasing the vinyl windows. He had observed similar windows in other parts of the Historic District. Chairman Rockwood pointed out that what was seen on the street may have been done before the BAR existed or could have been a like-for-like replacement. He explained the guidelines concerning integrity of materials and gave examples.

*Mr. Serafin made a motion to table **BAR-15-334** until the application is revised and resubmitted. Ms. Jackson seconded the motion. Voice vote was taken and the motioned passed 5-0.*

Ms. Schroth departed the meeting at 5:05pm.

#### **OLD BUSINESS:**

**BAR-15-196** Request of 309 BRAD LLC for new construction at 309 North Braddock Street.



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

June 25, 2015

Samuel Simpson  
210 S. Washington Street  
Winchester, VA 22601

Dear Mr. Simpson:

On Thursday, June 18, 2015, the Board of Architectural Review acted on the following request:

**BAR-15-336** Request of Samuel Simpson for a Certificate of Appropriateness to replace vinyl windows in the front of the house with wood windows at 210 South Washington Street.

On a vote of 5-0, the Board approved **BAR-15-336** with the following comments:

- Replace the wood windows that were existent in the house on the front and side of the house with wood windows as included in the application;
- the one vinyl window on the side of the house to be left as is;
- the windows on the back of the house to be replaced with vinyl windows with simulated divided lights;
- the windows in the front of the house to be replaced within one year;
- the windows on the side of the house to be replaced within two years.

The decision of the Board may be appealed to the Common Council of the City of Winchester within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1413.

Sincerely yours,

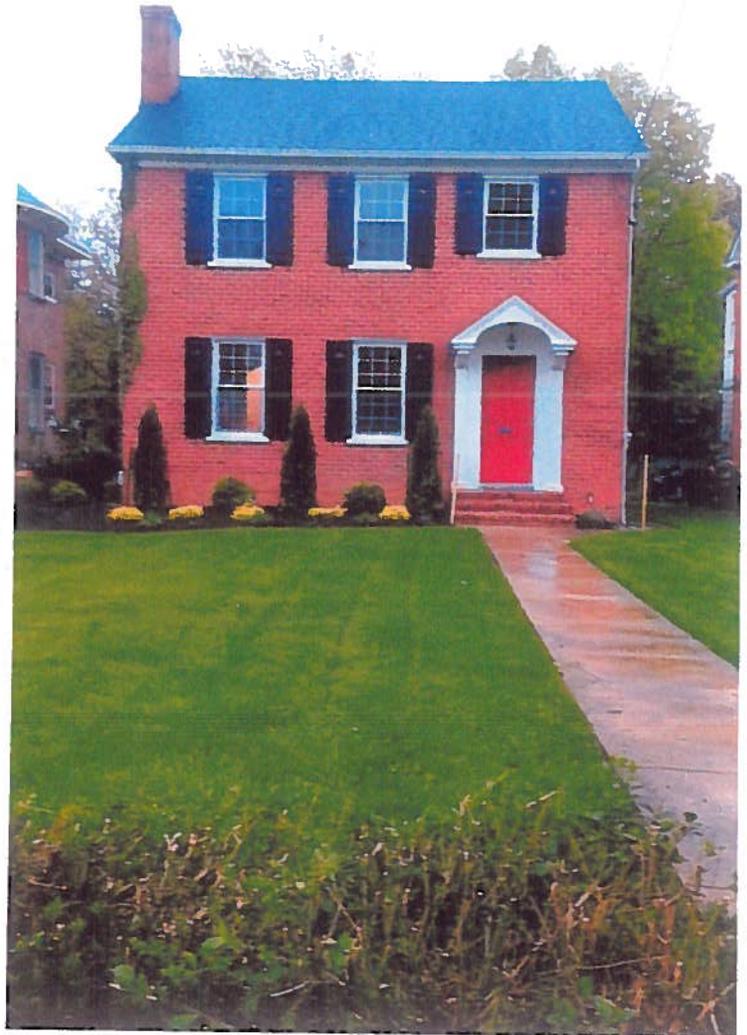
Joshua Crump  
Planner I

< Camera Roll 900 of 913

Edit



**Before**



**After**









## SUMMARY OF RIGHTS AND OBLIGATIONS OF SELLERS AND PURCHASERS UNDER THE VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT



Virginia's Residential Property Disclosure Act (the "Act") (Virginia Code §55-517 et seq.) requires real estate licensees to inform the parties to a transaction with whom they deal of their rights and obligations under the Act. The licensee providing this information to you is prepared to answer any questions you may have about what the Act means to you, and to furnish you with a copy of the Act at your request.

The Act applies to sales, exchanges, installment sales, or leases with option to purchase of residential real property improved with one to four dwelling units. The Act does not apply to: transfers pursuant to court order (in estate administration, pursuant to writ execution, foreclosure, bankruptcy, condemnation, or by decree for specific performance); transfers among co-owners; transfers among spouses; transfers among parents or grandparents and their children or grandchildren; tax sales; transfers involving a government or housing authority; or (subject to certain exceptions discussed below) sales of new homes.

The Act requires sellers to furnish purchasers with a disclosure statement developed by the Virginia Real Estate Board. The statement must be furnished to the purchaser before final ratification of the purchase contract or the purchaser may terminate the contract or sue later for damages. The statement will direct purchasers to the RESIDENTIAL PROPERTY DISCLOSURES web page ([http://www.dpor.virginia.gov/News/Residential\\_Property\\_Disclosures/](http://www.dpor.virginia.gov/News/Residential_Property_Disclosures/)) for important information about the real property. Purchasers are advised to consult the webpage.

A seller, in furnishing a disclosure statement, makes no representations or warranties as to the condition of the property or any improvements located thereon nor with respect to the matters set forth and described at the RESIDENTIAL PROPERTY DISCLOSURES web page ([http://www.dpor.virginia.gov/News/Residential\\_Property\\_Disclosures/](http://www.dpor.virginia.gov/News/Residential_Property_Disclosures/)). Purchaser is advised to exercise whatever due diligence purchaser deems necessary including a certified home inspection, as defined in §54.1-500, in accordance with the terms and condition of the purchase contract, but in any event prior to settlement.

A builder of a new home must disclose to a purchaser in writing all known material defects which would constitute a violation of any applicable building code. In addition, for property located wholly or partially in any locality comprising Planning District 15 (the City of Richmond, the Town of Ashland, and the counties of Charles City, Chesterfield, Goochland, Hanover, Henrico, New Kent and Powhatan), the builder (or seller, if the owner is not the builder) shall disclose in writing whether mining operations have previously been conducted on the property or the presence of any abandoned mines, shafts or pits. This disclosure does not abrogate any warranty or other obligations the builder may have to the purchaser, and must be made (i) when selling a completed home, before acceptance of the purchase contract, or (ii) when selling a home before or during construction, after issuance of a certificate of occupancy. No disclosure or statement of any kind is required if there is no such information to disclose. Any required disclosure may be, but need not be, contained in the disclosure statement described in this Summary.

A purchaser must be furnished with a disclosure statement signed by the seller prior to final ratification of the purchase contract. If such statement is not received by final ratification, the purchaser's sole remedy shall be to terminate the purchase contract by sending written notice to the seller either by hand delivery or U. S. Mail, postage prepaid, at or prior to the earliest of (i) 3 days after receiving the statement (if delivered in person); (ii) 5 days after postmark (if sent by U. S. Mail, postage prepaid); (iii) settlement; (iv) occupancy by purchaser; (v) purchaser's making written application for a mortgage loan if such application discloses that the termination right ends upon application; (vi) purchaser's execution of a written waiver of the right to terminate (such waiver may not be in the purchaser contract).

If the seller fails to provide the required disclosure statement, the contract may be terminated as set forth above. If the seller fails to provide the required disclosure statement, or the seller misrepresents, willfully or otherwise, the information required in such disclosure, except as a result of information provided by the locality in which the property is located, the purchaser may bring an action to recover actual damages suffered as a result of such violation. No purchaser of property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have a right to maintain an action for such damages. Any such action must be brought within one year of the date the purchaser received the disclosure statement. If no disclosure statement was provided to the purchaser, the action must be brought within one year of the date of settlement, or purchaser's occupancy of the property by lease with option to purchase.

Purchasers should be aware that neither a seller nor a real estate licensee is obligated to disclose facts or occurrences which have no effect on the physical structure of the property, its physical environment, or the improvements located thereon, or the fact that the property was the site of a homicide, felony, or suicide. Furthermore, it is a violation of federal law to disclose whether a previous occupant of the property was afflicted with the HIV virus or has AIDS.

Purchasers should be aware that in providing a disclosure statement:

(a) The seller is making no representations with respect to any matters that may pertain to parcels adjacent to the subject property. Purchasers should exercise whatever due diligence they deem necessary with respect to adjacent parcels in accordance with the terms and conditions of the purchase contract, but in any event prior to settlement on the subject property.

(b) The seller makes no representations as to any matters that pertain to whether the provisions of any historic district ordinance affect the property. Purchasers are advised to exercise whatever due diligence they deem necessary with respect to any historic district designated by the locality pursuant to §15.2-2306, including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, in accordance with terms and conditions as may be contained in the purchase contract, but in any event prior to settlement on the property.

(c) The seller makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§10.1-2100 et seq.) adopted by the locality where the property is located pursuant to §10.1-2109. Purchasers should exercise whatever due diligence they deem necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the purchase contract, but in any event prior to settlement on the property.

(d) The seller makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§19.2-387 et seq.) of Title 19.2. Purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with the terms and conditions of the purchase contract, but in any event prior to settlement. Such information may be obtained by contacting the local police department or the Department of State Police, Central Criminal Records Exchange, at (804) 674-2000, or on the Internet at [www.vsp.state.va.us/vsp.html](http://www.vsp.state.va.us/vsp.html).

(e) The seller makes no representations with respect to whether the property is within a dam break inundation zone. Purchaser is advised to exercise whatever due diligence the purchaser deems necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones.

(f) The undersigned owner(s) makes no representations with respect to the presence of any stormwater detention facilities located on the property and the purchaser(s) is advised to exercise whatever due diligence the purchaser(s) deems necessary to determine the presence of any stormwater detention facilities on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract.

(g) The undersigned owner(s) makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and the purchaser(s) is advised to exercise whatever due diligence the purchaser(s) deems necessary to determine the presence of any wastewater system on the property, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to that contract.

(h) The owner makes no representations with respect to any right to install or use solar energy collection devices on the property.

(i) The seller represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§36-97 et seq.) that affect the safe, decent and sanitary living conditions of the property of which the seller has been notified in writing by the locality, nor any pending violation of the local zoning ordinance that the seller has not abated or remedied within the time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as set out in the disclosure statement.

If the property is located in a locality in which a military air installation is located, the seller must provide purchasers with a disclosure statement setting forth whether the property is located in a noise zone or accident potential zone, or both, if so designated on the official zoning map of the locality. Such disclosure shall state the specific noise or accident potential zone, or both, in which the property is located.

Please acknowledge receiving a copy of this summary by signing below.

Date \_\_\_\_\_

Date \_\_\_\_\_





# COMMONWEALTH of VIRGINIA

## Department of Historic Resources

Molly Joseph Ward  
*Secretary of Natural Resources*

2801 Kensington Avenue, Richmond, Virginia 23221

Julie V. Langan  
*Director*

Tel: (804) 367-2323  
Fax: (804) 367-2391  
[www.dhr.virginia.gov](http://www.dhr.virginia.gov)

September 17, 2015

Dear Common Council Members,

For many years the City of Winchester has been well recognized by residents and visitors alike as a well preserved town that cares for its valuable historic assets. The recommendations of the Winchester Board of Architectural Review (BAR) to property owners within the district have been key factors in the success of the preservation of the Winchester Historic District, one of the largest and finest historic districts in Virginia.

It has come to my attention that a property owner on South Washington Street, located within the local historic district, is challenging the decision of the BAR requesting him to remove vinyl windows that were never approved by the BAR and replacing them with wooden ones.

In the opinion of the Department of Historic Resources, the recommendation by the BAR is entirely appropriate as it complies with the *Secretary of the Interior's Standards for Rehabilitation*. Following these nationally known and accepted guidelines insures the appropriate treatment of historic buildings. Replacing the Washington Street residence's original wooden windows with wooden windows—like materials with like materials—adheres to the *Standards* and thereby maintains the historic integrity of the building and protects the historic character of the historic district.

I hope the Winchester City Council will support its Board of Architectural Review as it works hard to preserve the integrity of the Winchester Historic District. The Department of Historic Resources applauds the City of Winchester as it continues to lead the Shenandoah Valley in its commitment to historic preservation.

Sincerely yours,

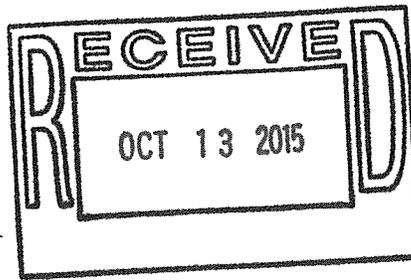
David Edwards  
Director, Community Services Division

Administrative Services  
10 Courthouse Ave.  
Petersburg, VA 23803  
Tel: (804) 862-6408  
Fax: (804) 862-6196

Eastern Region Office  
2801 Kensington Avenue  
Richmond, VA 23221  
Tel: (804) 367-2323  
Fax: (804) 367-2391

Western Region Office  
962 Kime Lane  
Salem, VA 24153  
Tel: (540) 387-5443  
Fax: (540) 387-5446

Northern Region Office  
5357 Main Street  
PO Box 519  
Stephens City, VA 22655  
Tel: (540) 868-7029  
Fax: (540) 868-7033



CERTIFICATE #: BAR- \_\_\_\_\_  
 DATE SUBMITTED: \_\_\_\_\_



Rouss City Hall  
 15 North Cameron Street  
 Winchester, VA 22601

Telephone: (540) 667-1815  
 FAX: (540) 722-3618  
 TDD: (540) 722-0782  
 Web: www.winchesterva.gov

*We are ok with replacing 5 front windows*

**APPLICATION  
 BOARD OF ARCHITECTURAL REVIEW  
 CERTIFICATE OF APPROPRIATENESS**

Please print or type all information:

|   |  |
|---|--|
| _____                                       | _____ Elizabeth & Sean Gray _____<br>Applicant   |
| 540-686-7379 _____<br>Telephone             | 210 S. Washington Street _____<br>Street Address |
| dalton518@yahoo.com _____<br>E-mail address | Winchester, VA 22601 _____<br>City / State / Zip |

|   |  |
|---|--|
| _____ <i>Elizabeth Gray</i> _____<br>Property Owner's Signature | _____ Elizabeth Gray _____<br>Property Owner (Name as appears in Land Records) |
| 540-686-7379 _____<br>Telephone                                 | 210 S. Washington Street _____<br>Street Address                               |
| dalton518@yahoo.com _____<br>E-mail address                     | Winchester, VA 22601 _____<br>City / State / Zip                               |

**PROPERTY LOCATION**  
 Current Street Address(es) 210 S. Washington Street Use: residential  
 Zoning: \_\_\_\_\_ (HW) Year Constructed: 1940 Historic Plaque? Y( ) N() Number: \_\_\_\_\_

**TYPE OF REQUEST**

|                        |                                 |                      |
|------------------------|---------------------------------|----------------------|
| Demolition             | Sign (specify type) and # _____ | Exterior Change      |
| New Construction       | Freestanding                    | Siding               |
| Addition               | Wall                            | <u>Roofing</u>       |
| Fence/Wall             | Projecting                      | <u>Windows/Doors</u> |
| CONCEPTUAL REVIEW ONLY | Other sign (specify)            | Paint                |
| Other (specify)        |                                 |                      |

**\*\*\*SEE REVERSE FOR MATERIALS TO INCLUDE WITH APPLICATION\*\*\***

FOR OFFICE USE ONLY

BAR Review OR Administrative Review per Section 14-5

Hearing Date(s) \_\_\_\_\_

CERTIFICATE OF APPROPRIATENESS: APPROVED DISAPPROVED TABLED WITHDRAWN

CONDITIONS NOTED: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

Secretary, Board of Architectural Review